

Appl. No. 10/747,924
Amdt. dated October 20, 2006
Reply to Office Action of July 20, 2006

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REMARKS/ARGUMENTS

Applicant's attorney thanks the Examiner for his comments and thoughtful analysis of the present application. Claims 1-34 are presented for the Examiner's consideration. Claim 1 has been amended to replace the word "components" with the phrase "at least one component." Support for this amendment can be found in the specification on page 3 lines 14-16 and page 6 lines 21-23. Claim 1 has also been amended to include the feature of the treatment being a coating treatment, a chemical treatment, or combination thereof. Support for this amendment can be found in claim 3 and on page 2 line 33 through page 3 line 1 of the present disclosure. Claim 3 has been canceled. Claim 9 has been amended to correct a grammatical error. Claims 11-16 have been amended for consistency with amended claim 1. Claims 20-34 have been withdrawn.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

By way of the Office Action mailed July 20, 2006, the Examiner rejected claim 2 under 35 U.S.C. § 112, second paragraph, for allegedly being indefinite. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

The Examiner alleges that claim 1 requires multiple components, and that the feature of claim 2 having the components comprising fluff fibers only, or superabsorbent particles (SAP) only, contradicts claim 1. Applicant disagrees that claim 1 requires all components to be treated to retain surface charges which create repulsive forces between the composite components upon fluid insult of the composite. However, to address the Examiner's concern and to progress prosecution of the application, Applicant has amended claim 1 to replace the word "components" with the phrase "at least one component." Support for this amendment can be found in the specification on page 3 lines 14-16 and page 6 lines 21-23. Claim 2, as well as claims 11-16, have also been amended for consistency with amended claim 1.

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For at least this reason, Applicant respectfully submits that the rejection of claim 2 under 35 U.S.C. § 112 second paragraph has been overcome, and Applicant respectfully requests that this rejection be withdrawn.

By way of the Office Action mailed July 20, 2006, the Examiner rejected claims 1-12 and 15-19 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. patent number 4,604,313 to McFarland et al. in view of PCT publication number WO 03/080259 to Badyal et al. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

Claim 3 has been canceled.

In accordance with MPEP § 2142, a *prima facie* case of obviousness is established by meeting three criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the references must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 4899 (Fed. Cir. 1991).

The Examiner states that McFarland et al. teach an absorbent article comprising polymeric and wood fibers, while Badyal et al. teach that a plasma modification/deposition may be applied to the top of the absorbent article and/or below the substrate's surface at selected localized areas. (See Office Action mailed July 20, 2006, page 3-4.) Applicant has amended independent claim 1 to include the feature of the treatment being a coating treatment, a chemical treatment, or combination thereof. Support for this amendment can be found in claim 3 and on page 2 line 33 through page 3 line 1 of the present disclosure. The combining of McFarland et al. with Badyal et al. does not provide one of ordinary skill in the art with the suggestion or motivation to treat at least one component of the composite of the present invention to retain surface charges which create repulsive forces between the at least one component upon fluid insult by utilizing a coating treatment, a chemical treatment, or combination thereof, as required by amended claim 1. Thus, at least the first requirement of MPEP § 2142 is not present. In

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addition, the references do not teach or suggest all the claim limitations of Applicant's invention. Thus, at least the third requirement of MPEP § 2142 is also not present.

For at least these reasons, Applicant respectfully submits that the rejection of independent claim 1 under 35 U.S.C. § 103(a) has been overcome, and Applicant respectfully requests that this rejection be withdrawn.

As to dependent claims 2-12 and 15-19, these claims are allowable for at least the same reasons as claim 1, since they are each dependent upon a patentable independent claim include the limitations of amended claim 1. For at least these reasons, Applicant respectfully requests that this rejection of claims 2-12 and 15-19 under 35 U.S.C. § 103 also be withdrawn.

By way of the Office Action mailed July 20, 2006, the Examiner rejected claims 13 and 14 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. patent number 4,604,313 to McFarland et al. in view of PCT publication number WO 03/080259 to Badyal et al., and further in view of U.S. patent number 5,147,343 to Kellenberger. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

Applicant submits that amended claim 1 is patentable over McFarland et al. in view of Badyal et al. for the reasons discussed above. The additional teaching of Kellenberger with respect to claims 13 and 14, which depend on claim 1 and include the limitations of claim 1, do not overcome the deficiencies with regard to amended claim 1. In particular, the Examiner states that "Kellenberger teaches an absorbent composite comprising a porous matrix of fibers and superabsorbent (SAP) material" and that "Several examples are taught by Kellenberger including Example VIII with 57% of the SAP particles between 300 and 600 micrometers." (See Office Action mailed July 20, 2006, page 5.) However, Kellenberger does not disclose that at least one of the components of the composite are treated to retain surface charges which create repulsive forces between the at least one component upon fluid insult of the composite wherein the treatment is a coating treatment, a chemical treatment, or combination thereof, as required by claims 13 and 14. Thus, the references do not teach or suggest all the claim limitations of Applicant's invention, as required by MPEP § 2142. For at least these reasons,

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Applicant respectfully submits that the rejection of claims 13 and 14 under 35 U.S.C. § 103 has been overcome, and Applicant respectfully requests that this rejection be withdrawn.

By way of the Office Action mailed July 20, 2006, the Examiner provisionally rejected claims 1, 3, 4, 5, 7-10 and 15-19 under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claim 8 of copending Application No. 10/734,004. The Examiner states that claims 1, 3, 4, 5, 7-10 and 15-19 of the present application and claim 8 of Application No. 10/734,004 are both directed to absorbent articles comprising fibers subjected to corona discharge. (See Office Action mailed July 20, 2006, page 6.) However, Applicant previously amended the specification and claims to remove reference to "corona treatment" as noted in Applicant's previous response. (See response dated March 23, 2006 page 9-10.) In addition, applicant has now amended independent claim 1 to include the feature of the treatment being a coating treatment, a chemical treatment, or combination thereof. Claims 3, 4, 5, 7-10 and 15-19 depend on claim 1 and include the limitations of claim 1. Thus, Applicant respectfully requests that this double patenting rejection be withdrawn.

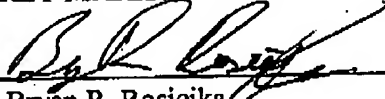
For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance. Applicant intends to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicant has not addressed in this response, Applicant's undersigned attorney requests a telephone interview with the Examiner.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

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CERTIFICATE OF TRANSMISSION

I, Judith M. Anderson, hereby certify that on October 20, 2006 this document is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571-273-8300).

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